STATE OF MICHIGAN

COURT OF APPEALS

KARTER LANDON, Petitioner-Appellant,	UNPUBLISHED June 3, 2014
v	Nos. 311734; 311737 Tax Tribunal
CITY OF FLINT, Respondent-Appellee.	LC Nos. 00-409922; 00-409923

KARTER LANDON, Petitioner-Appellant,	
v	Nos. 311740; 315719 Tax Tribunal
TOWNSHIP OF GENESEE Respondent-Appellee.	LC Nos. 00-409906; 00-443704

Before: STEPHENS, P.J., and HOEKSTRA and METER, JJ.

PER CURIAM.

Petitioner Karter Landon appeals as of right four separate orders entered by the Michigan Tax Tribunal (MTT) establishing the taxable value (TV) of three of his properties. In docket no. 311734, petitioner appeals an order entered on June 15, 2012, that established the TV of a property in the City of Flint for tax years 2010 and 2011. In docket no. 311737, petitioner appeals an order entered on June 26, 2012, that established the TV of a second property in the City of Flint [respondent Flint] for tax years 2010 and 2011. In docket no. 311740, petitioner appeals an order entered on June 15, 2012, that established the TV of a property in Genesee Township for tax years 2010 and 2011. In docket no. 315719, petitioner appeals an order entered on April 11, 2013, that established the TV of the same property in Genesee Township [respondent Genesee] for the 2012 tax year. We affirm.

As observed in *Michigan Props, LLC v Meridian Twp*, 491 Mich 518, 527; 817 NW2d 548 (2012):

> Review of decisions by the Tax Tribunal is limited. In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation. The Tax Tribunal's factual findings are final if they are supported by competent, material, and substantial evidence on the whole record. [Quotation marks and citation omitted.]

"This Court may not substitute its judgment for that of the MTT, even if we would have reached a different result than the tribunal." *Detroit Lions, Inc v Dearborn*, 302 Mich App 676, 701-702; 840 NW2d 168 (2013).

"[A]ll property, real and personal, within the jurisdiction of this state . . . shall be subject to taxation." MCL 211.1. "For the purpose of taxation, real property includes . . . [a]ll land within this state, all buildings and fixtures on the land, and all appurtenances to the land . . . ." MCL 211.2(1)(a). Additionally, MCL 211.27a provides that, generally, "property shall be assessed at 50% of its true cash value" under Const 1963, art 9, § 3. MCL 211.27(1) provides that "true cash value" means

> the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.

"There are three traditional methods of determining true cash value, or fair-market value, which have been found acceptable and reliable by the Tax Tribunal and the courts. They are: (1) the cost-less-depreciation approach, (2) the sales-comparison or market approach, and (3) the capitalization-of-income approach." *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991). "It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case. Regardless of the valuation approach employed, the final value determination must represent the usual price for which the subject property would sell." *Id*. at 485 (citations omitted).

Docket Nos. 311734 and 311737 (the first and second Flint properties)

We address petitioner's appeals in docket nos. 311734 and 311737 together because the facts of those cases are similar and petitioner's appellate arguments for both are identical.

Petitioner argues that the MTT's assessments of the first and second Flint properties in the 2010 and 2011 tax years were not supported by competent, material, and substantial evidence. We disagree.

In docket nos. 311734 and 311737, petitioner argued that the MTT should apply a sales-comparison approach to the valuation of the first and second Flint properties. Petitioner provided the MTT with 48 comparison sales that were completed in 2009 and 2010 on the east side of Flint, which was where petitioner's properties were located. Of those 48 comparison sales, 44 were bank sales. Respondent Flint provided the MTT with three comparison sales it argued the MTT should use when it applied the sales-comparison approach to the valuation of

the first and second Flint properties. While the MTT rejected one of respondent Flint's comparison sales because it was a land contract sale, the MTT found that respondent Flint's two remaining comparable sales provided more reliable evidence of value than the sales provided by petitioner because petitioner's sales were primarily bank sales.[1] The MTT took the adjusted sale prices from respondent Flint's two remaining comparison sales, averaged them, and found a true cash value (TCV) for the first Flint property in 2010 of $11,100. The MTT then relied on a representation made by petitioner that there was little or no change in value between 2010 and 2011 and concluded that the TCV of the first Flint property in 2011 was also $11,100. The MTT repeated this process with the second Flint property and found that the TCV of the second Flint property in 2010 and 2011 was $10,300.[2]

On appeal, petitioner argues that the MTT erred when it disregarded his comparison sales.[3] Petitioner further argues that even if the MTT chose not to consider his 44 bank sales, his remaining four comparable sales provided more ample evidence of value than respondent Flint's two applicable sales. However, the weight to be accorded to the evidence in this case was within the MTT's discretion, which we may not second-guess on appeal. *Drew v Cass Co*, 299 Mich App 495, 501; 830 NW2d 832 (2013). More importantly, our review of the MTT's findings is to determine whether they were supported by "competent, material, and substantial evidence on the whole record." *Michigan Props, LLC*, 491 Mich at 527. "'Substantial evidence' is evidence that a reasonable person would accept as sufficient to support a conclusion. While this requires more than a scintilla of evidence, it may be substantially less than a preponderance." *Dowerk v Oxford Charter Twp*, 233 Mich App 62, 72; 592 NW2d 724 (1998). Thus, while petitioner's four comparable sales (that were not bank sales) outnumbered the two comparable sales offered by respondent Flint, that fact alone is irrelevant to our review. *Id*.

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[1] Petitioner argues that the MTT should not have considered respondent Flint's comparable sales in valuing the first and second Flint properties because respondent Flint's answer in docket nos. 311734 and 311737 failed to enumerate the nature of its evidence. In doing so, petitioner relied on the example of *South Davison Community Ctr, Inc v Davison Twp*, unpublished opinion per curiam of the Court of Appeals, issued October 25, 2002 (Docket No. 232346). However, *South Davison Community Ctr* is easily distinguishable from this case and respondent Flint's answers "set forth the facts upon which the respondent relies in defense of the matter" as required by the MTT's rules.

[2] The assessed TVs for the first Flint property in 2010 and 2011 were $5,050, and the assessed TVs for the second Flint property in 2010 and 2011 were $5,150. Those TVs were at 50 percent of the properties' TCVs, as required by MCL 211.27a and Const 1963, art 9, § 3.

[3] In making this argument, Petitioner asks this Court to use a dictionary definition to construe the "usual selling price" language from MCL 211.27. However, MCL 211.27(1) statutorily defines the "usual selling price" of a property as "the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale" at the time of the assessment. Therefore, it is improper to use petitioner's dictionary definition to construe that term. *Haynes v Neshewat*, 477 Mich 29, 35; 729 NW2d 488 (2007) (holding that only where a statutory term is undefined by statute may a dictionary be consulted).

The dispositive question on appeal is whether the two comparable sales relied upon by the MTT in valuing the first and second Flint properties constituted "competent, material, and substantial evidence." Petitioner argues that one of the comparable sales the MTT relied upon was not "material" evidence because it was a "completely remodeled house with amenities far superior to" the first and second Flint properties. However, as noted by the MTT, petitioner failed to provide evidence that the interiors of the first and second Flint properties were inferior to the second comparable house relied upon by the MTT.

Petitioner also argues that respondent Flint "presented no competent evidence of any of its claimed sales." However, petitioner provides absolutely no legal or factual explanation for that argument. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give issues cursory treatment with little or no citation of supporting authority." *Houghton v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003) (citations omitted). "An appellant's failure to properly address the merits of his assertion of error constitutes abandonment of the issue." *Id*. at 339-340. "In an appeal from an order of the Tax Tribunal, the appellant bears the burden of proof." *Podmajersky v Dep't of Treasury*, 302 Mich App 153, 162; 838 NW2d 195 (2013).

Finally, the two comparable sales relied upon by the MTT constituted "substantial" evidence, and petitioner provides no authority to the contrary. Accordingly, the MTT's factual findings related to the valuation of the first and second Flint properties were final because they were supported by "competent, material, and substantial evidence on the whole record." *Michigan Props, LLC*, 491 Mich at 527.[4]

Docket No. 311740 (the valuation of the Genesee property during the 2010 and 2011 tax years)

In docket no. 311740, petitioner argued that the MTT should apply a sales-comparison approach to the valuation of the Genesee property during the 2010 and 2011 tax years. Petitioner provided the MTT with five comparable houses sold during 2009 and two comparable houses sold during 2010. However, petitioner argued before the MTT that the Genesee property was uninhabitable and that, therefore, the property should be valued based only on the land value of the property. To support that argument, petitioner included in his response a purported quote from a contractor that stated that to bring the Genesee property up to a "saleable and rentable condition that meets code," petitioner would have to spend $59,000. Petitioner also submitted photographs that petitioner claimed showed the very poor condition of the interior of the Genesee property.

[4] Petitioner argues that failed efforts to sell the first and second Flint properties at $10,000 in the past, necessarily renders the MTT's valuation of the first and second Flint properties erroneous in this case. However, the five cases petitioner cites for that proposition do not support the idea that the MTT should consider a petitioner's own efforts to sell a property. As discussed above, MTT's valuations of the first and second Flint properties are final because they were supported by competent, material, and substantial evidence.

In its opinion and judgment, the MTT found that the Genesee property had a partial basement, and, on that basis, rejected petitioner's three comparable houses from 2009 that had a full basement. Instead, the MTT relied on petitioner's two sales in 2009 that had partial basements. Based on those sales, the MTT found a price per square foot of $24.72. Multiplying that price per square foot by the square feet of the Genesee property, the MTT found that the TCV of the Genesee property in 2010 was $36,400. Regarding the Genesee property's valuation in 2011, the MTT found that only one of petitioner's offered home sales was comparable to the Genesee property. The MTT found that the one comparable house to the Genesee property was not a persuasive indicator of value. Instead, the MTT took its determination of the Genesee property's TCV in 2010 ($36,400) and discounted that value by the rate of market change reflected in the Board of Review's assessments of the TCV of the Genesee property from 2010 to 2011, which was a loss of TCV of approximately 31 percent. On that basis, the MTT found that the 2011 TCV of the Genesee property was $25,000.[5]

In reaching those findings, the MTT found that the photographs petitioner submitted to the MTT that purportedly showed the very poor condition of the interior of the Genesee property did not provide competent or credible evidence of the Genesee property's condition because the photographs did not have any clear indication as to when they were taken or as to whether they actually depicted the Genesee property. Additionally, the MTT found that it was not persuaded of the authenticity of the purported contractor's quote because the quote was not in a standard form for estimates, there was no reference to an inspection in the quote, and the quote did not contain a name, signature, or contact information for an inspector.

On appeal, petitioner argues that the MTT erred in relying on petitioner's two home sales in 2009 that had partial basements when it assessed the Genesee property for 2010 and 2011 because the Genesee property was uninhabitable to the point that it required a complete remodel that would cost approximately $59,000. However, the MTT rejected the only evidence petitioner provided for the uninhabitability of the Genesee property, and we will not second-guess the weight the MTT accorded to the evidence. *Drew*, 299 Mich App at 501.

Petitioner does not otherwise challenge the competence, materiality, or substance of the evidence supporting the MTT's valuation of the Genesee property during the 2010 and 2011 tax years. Petitioner fails to bear his burden of proof that the MTT's factual findings related to the valuation of the Genesee property's for the 2010 and 2011 tax years were not supported by "competent, material, and substantial evidence on the whole record," and those findings are therefore final. *Michigan Props, LLC*, 491 Mich at 527; *Podmajersky*, 302 Mich App at 162 (appellant bears the burden of proof in an appeal from the MTT).

Docket No. 315719 (the valuation of the Genesee property during the 2012 tax year)

[5] The Genesee property was assessed a TV of $18,200 in 2010 and a TV of $12,500 in 2011. Those TVs were 50 percent of the Genesee property's TCVs in 2010 and 2011, as required by MCL 211.27a and Const 1963, art 9, § 3.

In docket no. 315719, petitioner argued that the MTT should apply a sales-comparison approach to the valuation of the Genesee property during the 2012 tax year. Petitioner provided the MTT with five comparable houses sold during 2011. However, petitioner again argued before the MTT that the Genesee property was uninhabitable and that, therefore, the property should be valued based only on the land value of the property. To support that argument, petitioner included a new estimate that indicated that petitioner would have to spend $49,500 to renovate the Genesee property, as well as photographs of the property. Petitioner presented sales of three parcels of vacant land in 2011 to support his valuation of the land on the Genesee property.

In the final opinion and judgment, entered on April 11, 2013, the MTT found that, based on the photographs petitioner provided of the Genesee property, the Genesee property was not habitable at the time of the issuance of the opinion. Accordingly, the MTT disregarded petitioner's five comparison home sales made in 2011 because they were not in the same condition as the Genesee property. The MTT also rejected petitioner's claim that the Genesee property had "negative value" because it required almost $50,000 in repairs because the MTT found that method of valuation unreliable. Further, the MTT rejected petitioner's three vacant land sales because they were not comparable to the Genesee property's land due to the fact that the vacant land sales included farm land and land in a different school district.

To value the Genesee property, the MTT found that the property record card for the Genesee property was the best evidence of land value and adopted that value ($19,792) as the property's land value (Final Opinion and Judgment in Docket No. 315719, 3). The MTT found, using petitioner's photographs that the Genesee property was "30 percent good" which it defined as "[d]efinite deterioration is obvious, definitely undesirable and barely usable." Accordingly, the MTT found that the Genesee property had a building value of $12,000. Combining the Genesee property's land value and building value, the MTT found that the property had a TCV of $31,800 and a TV of $15,900 in 2012.

On appeal, petitioner argues that the MTT erred in applying a cost-less-depreciation approach to the valuation of the house on the Genesee property, and that the MTT erred in relying on the land value stated in the property record card for the Genesee property. However, on April 25, 2013, the MTT entered a corrected final opinion and judgment indicating that its TV for the Genesee property should have been lower for 2012 because of its decision regarding the property's TV in the 2011 tax year. On that basis, the MTT lowered the Genesee property's 2012 TV to $12,837. In reaching that conclusion, the MTT found it had erroneously relied on the property record card submitted by respondent Genesee because that card did not reflect the MTT's change in TV for 2011. Because petitioner's arguments in regard to docket no. 315719 all relate to findings the MTT made in its April 11, 2013 final opinion that were subsequently reversed by the MTT's April 25, 2013 corrected final opinion, petitioner's arguments are moot. *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998) (holding that an

issue is moot "when an event occurs that renders it impossible for a reviewing court to grant relief"). We will generally not decide moot issues. *Id.*[6]

Affirmed.

/s/ Cynthia Diane Stephens
/s/ Joel P. Hoekstra
/s/ Patrick M. Meter

[6] Respondent Genesee argues that petitioner does not have standing to challenge the assessments with regard to the Genesee property in docket nos. 311740 and 315719. However, this issue is unpreserved and we decline to address it on appeal. See *Coates v Bastian Bros, Inc*, 276 Mich App 498, 509-510; 741 NW2d 539 (2007) (we are not obligated to consider unpreserved issues in civil cases).

Respondent Genesee also argues that this Court lacks jurisdiction to hear the appeal in docket no. 315719 because petitioner failed to file the transcripts and failed to timely file his appellate brief. In making these arguments, respondent Genesee relies on MCR 7.204(A), which states that "[t]he time limit for an appeal of right is jurisdictional." However, the jurisdictional requirements of MCR 7.204 have been met in this case. Furthermore, the requirements for filing transcripts and briefs, governed by MCR 7.210(B) and MCR 7.212(A)(1)(a), respectively, do not implicate the jurisdictional requirements of MCR 7.204(A). Petitioner fails to show that this Court lacks subject-matter jurisdiction to hear petitioner's appeal in docket no. 315719. *Hillsdale Co Senior Servs, Inc v Hillsdale Co*, 494 Mich 46, 51; 832 NW2d 728 (2013) (subject-matter jurisdiction is reviewed de novo).